

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 46.2-334.01, as it is currently effective and as it shall become effective,*
3 *of the Code of Virginia, relating to license restrictions for minors; use of handheld personal*
4 *communications devices.*

5 [H 1846]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That § 46.2-334.01, as it is currently effective and as it shall become effective, of the Code of**
9 **Virginia is amended and reenacted as follows:**

10 **§ 46.2-334.01. (Effective until March 1, 2021) Licenses issued to persons less than 18 years old**
11 **subject to certain restrictions.**

12 A. Any learner's permit or driver's license issued to any person less than 18 years old shall be
13 subject to the following:

14 1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person less than
15 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i)
16 an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et
17 seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et
18 seq.) of Chapter 10, the Commissioner shall direct such person to attend a driver improvement clinic.
19 No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be
20 awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal
21 custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in
22 demerit points and/or an award of safe driving points pursuant to § 46.2-498. The provisions of this
23 subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18
24 years old who attends and successfully completes a driver improvement clinic without having been
25 directed to do so by the Commissioner or required to do so by a court.

26 2. If any person less than 19 years old is convicted a second time of committing, when he was less
27 than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under
28 Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or
29 Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall suspend such person's driver's
30 license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and
31 not concurrent with, any other period of license suspension, revocation, or denial. Any person who has
32 had his driver's license or privilege to operate a motor vehicle suspended in accordance with this
33 subdivision may petition the juvenile and domestic relations district court of his residence for a restricted
34 license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home,
35 his place of employment, or an institution of higher education where he is enrolled, provided there is no
36 other means of transportation by which such person may travel between his home and his place of
37 employment or the institution of higher education where he is enrolled. On such petition the court may,
38 in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the
39 suspension of the person's license or privilege to operate a motor vehicle in the Commonwealth. Such
40 restricted license shall be valid solely for operation of a motor vehicle between such person's home and
41 his place of employment or the institution of higher education where he is enrolled.

42 3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an
43 offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et
44 seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et
45 seq.) of Chapter 10, the Commissioner shall revoke such person's driver's license or privilege to operate
46 a motor vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such
47 revocation shall be consecutive to, and not concurrent with, any other period of license suspension,
48 revocation, or denial.

49 4. In no event shall any person subject to the provisions of this section be subject to the suspension
50 or revocation provisions of subdivision 2 or 3 for multiple convictions arising out of the same
51 transaction or occurrence.

52 B. The initial license issued to any person younger than 18 years of age shall be deemed a
53 provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not
54 authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years
55 old. After the first year the provisional license is issued, the holder may operate a motor vehicle with up
56 to three passengers who are less than 21 years old (i) when the holder is driving to or from a

57 school-sponsored activity, (ii) when a licensed driver who is at least 21 years old is occupying the seat
 58 beside the driver, or (iii) in cases of emergency. These passenger limitations, however, shall not apply to
 59 members of the driver's family or household. For the purposes of this subsection, "a member of the
 60 driver's family or household" means any of the following: (a) the driver's spouse, children, stepchildren,
 61 brothers, sisters, half-brothers, half-sisters, first cousins, and any individual who has a child in common
 62 with the driver, whether or not they reside in the same home with the driver; (b) the driver's
 63 brothers-in-law and sisters-in-law who reside in the same home with the driver; and (c) any individual
 64 who cohabits with the driver, and any children of such individual residing in the same home with the
 65 driver.

66 C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of
 67 the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a
 68 place of business where he is employed; (ii) to or from an activity that is supervised by an adult and is
 69 sponsored by a school or by a civic, religious, or public organization; (iii) accompanied by a parent, a
 70 person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person
 71 accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to
 72 operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer
 73 firefighters and volunteer emergency medical services personnel to emergency calls.

74 ~~C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a~~
 75 ~~provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth~~
 76 ~~while using any cellular telephone or any other wireless telecommunications device, regardless of~~
 77 ~~whether such device is or is not hand-held.~~

78 D. The provisional driver's license restrictions in subsections B; ~~and C; and C1~~ shall expire on the
 79 holder's eighteenth birthday. A violation of the provisional driver's license restrictions in subsection B;
 80 ~~or C; or C1~~ shall constitute a traffic infraction. For a second or subsequent violation of the provisional
 81 driver's license restrictions in subsection B; ~~or C; or C1~~, in addition to any other penalties that may be
 82 imposed pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege to drive for a period
 83 not to exceed six months.

84 E. A violation of subsection B; ~~or C; or C1~~ shall not constitute negligence, be considered in
 85 mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by
 86 counsel in any action for the recovery of damages arising out of the operation, ownership, or
 87 maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or
 88 procedure pertaining to any such civil action.

89 F. No citation for a violation of this section shall be issued unless the officer issuing such citation
 90 has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of
 91 this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or
 92 any criminal statute.

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 96 subject to the following:

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 98 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i)
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 100 seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et
 101 seq.) of Chapter 10, the Commissioner shall direct such person to attend a driver improvement clinic.
 102 No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be
 103 awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal
 104 custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in
 105 demerit points and/or an award of safe driving points pursuant to § 46.2-498. The provisions of this
 106 subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18
 107 years old who attends and successfully completes a driver improvement clinic without having been
 108 directed to do so by the Commissioner or required to do so by a court.

109 2. If any person less than 19 years old is convicted a second time of committing, when he was less
 110 than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under
 111 Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or
 112 Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall suspend such person's driver's
 113 license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and
 114 not concurrent with, any other period of license suspension, revocation, or denial. Any person who has
 115 had his driver's license or privilege to operate a motor vehicle suspended in accordance with this
 116 subdivision may petition the juvenile and domestic relations district court of his residence for a restricted
 117 license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home,

his place of employment, or an institution of higher education where he is enrolled, provided there is no other means of transportation by which such person may travel between his home and his place of employment or the institution of higher education where he is enrolled. On such petition the court may, in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the suspension of the person's license or privilege to operate a motor vehicle in the Commonwealth. Such restricted license shall be valid solely for operation of a motor vehicle between such person's home and his place of employment or the institution of higher education where he is enrolled.

3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall revoke such person's driver's license or privilege to operate a motor vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such revocation shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial.

4. In no event shall any person subject to the provisions of this section be subject to the suspension or revocation provisions of subdivision 2 or 3 for multiple convictions arising out of the same transaction or occurrence.

B. The initial license issued to any person younger than 18 years of age shall be deemed a provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old. After the first year the provisional license is issued, the holder may operate a motor vehicle with up to three passengers who are less than 21 years old (i) when the holder is driving to or from a school-sponsored activity, (ii) when a licensed driver who is at least 21 years old is occupying the seat beside the driver, or (iii) in cases of emergency. These passenger limitations, however, shall not apply to members of the driver's family or household. For the purposes of this subsection, "a member of the driver's family or household" means any of the following: (a) the driver's spouse, children, stepchildren, brothers, sisters, half-brothers, half-sisters, first cousins, and any individual who has a child in common with the driver, whether or not they reside in the same home with the driver; (b) the driver's brothers-in-law and sisters-in-law who reside in the same home with the driver; and (c) any individual who cohabits with the driver, and any children of such individual residing in the same home with the driver.

C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a place of business where he is employed; (ii) to or from an activity that is supervised by an adult and is sponsored by a school or by a civic, religious, or public organization; (iii) accompanied by a parent, a person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer firefighters and volunteer emergency medical services personnel to emergency calls.

~~C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether such device is or is not hand-held.~~

D. The provisional driver's license restrictions in subsections B, ~~and C, and C1~~ shall expire on the holder's eighteenth birthday. A violation of the provisional driver's license restrictions in subsection B, ~~or C, or C1~~ shall constitute a traffic infraction. For a second or subsequent violation of the provisional driver's license restrictions in subsection B, ~~or C, or C1~~, in addition to any other penalties that may be imposed pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege to drive for a period not to exceed six months.

E. A violation of subsection B, ~~or C, or C1~~ shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.

F. No law-enforcement officer shall stop a motor vehicle for a violation of this section. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.